

UNITED STATES BANKRUPTCY COURT

DISTRICT OF HAWAII

In re)	Case No. 03-03315
)	Chapter 7
GRANT WILLIAM ENOS,)	
)	
Debtor.)	
_____)	

**MEMORANDUM DECISION ON
MOTION FOR RECONSIDERATION**

On November 21, 2003, Federal National Mortgage Association (“FNMA”) filed a motion for relief from the automatic stay to continue its foreclosure proceeding against certain real property in Kealahou. FNMA gave notice of the motion in accordance with LBR 4001-1(a)(3)(A). The debtor did not file a timely response to the motion. Therefore, FNMA submitted a proposed order granting the motion and served it upon the debtor. On December 9, 2003, the court entered the order. On the same day, the debtor finally filed a tardy response to the motion. On December 15, 2003, the debtor filed a document entitled “Debtors [sic] Opposition to Deny Federal National Mortgage Association’s Motion for Relief from In Rem Relief from Automatic Stay and Request to Set Aside or in the Alternative to Vacate Any Order Granting Federal National Mortgage Association’s Motion for In Rem Relief From the Automatic Stay.”

The debtor does not even attempt to explain his failure to file a timely

response to FNMA's motion. On that basis alone, the debtor's motion should be denied.

The debtor's motion also fails on the merits. The debtor claims that, for various reasons, FNMA is not entitled to foreclose the mortgage. The debtor or his alleged predecessor in interest could have raised, and may in fact have raised, all of these arguments in state court. The state court's judgments and orders (which include a decree of foreclosure, an order confirming a foreclosure sale, and a writ of possession) probably preclude all of those arguments. If the state court's orders do not dispose of all of the debtor's arguments, the state court should address whatever issues remain.

Because there is no reason to alter the court's prior order, the court will enter a separate order denying the motion.

DATED: Honolulu, Hawaii, January 5, 2004.

 */s/ Robert J. Faris*
United States Bankruptcy Judge